

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:14-CV-384-BR

This case comes before the court for entry of a Scheduling Order. The court has considered the Report of the Parties' Planning Meeting ("Discovery Plan") (D.E. 14), filed 22 Setpember 2014 and annexed hereto. The court finds the Discovery Plan to be reasonable. Accordingly, the Discovery Plan is APPROVED, subject to the changes reflected herein, which include the adjustment of deadlines to avoid weekends and holidays.

Critical deadlines are as follows:

1. All discovery shall be commenced in time to be completed by 31 December 2014.
2. Reports from retained experts shall be due from plaintiff by 31 October 2014 and from defendants by 14 November 2014. Rebuttal reports, if any, shall be due by 15 December 2014.
3. Any potentially dispositive motions shall be filed by 2 March 2015.
4. The trial date will be set in a separate Order by Senior District Judge W. Earl Britt.

The remaining portions of the Discovery Plan not modified herein are ADOPTED as the court's Order.

Supplementation under Fed. R. Civ. P. Rule 26(e) must be made promptly. In addition, motions to join additional parties and amend pleadings must be made promptly, but in no event later than 26 September 2014. Nothing in this Order shall relieve any party of any requirement to obtain court approval prior to joining a party or amending its pleadings. Any motion to amend filed after the deadlines set in this Order must meet the standards of Fed. R. Civ. P. 15 and 16.

Counsel are cautioned not to be dilatory in pursuing discovery. Motions for extension of discovery deadlines are not favored if they would require a continuance of the trial.

Any party that makes an appearance after this Order has been entered shall be required to confer with opposing counsel and make disclosures pursuant to Fed. R. Civ. P. 26(a)(1) within 21 days after the party's appearance. Such party shall be bound by the terms of this Order unless the party moves for and obtains amendment of this Order by the court.

The parties are reminded that on consent of all parties and with the concurrence of the District Judge this case may be referred to a Magistrate Judge for jury or bench trial, as appropriate, with a peremptory trial setting and the right of direct appeal to the Fourth Circuit. A copy of the consent form may be obtained from the court's website, www.nced.uscourts.gov. If all parties wish to exercise this option, it should be done as soon as possible. The parties are free to withhold consent without adverse substantive consequences. The consent form should not be filed with the court unless all parties to the cases involved have consented. Consents may not be permitted after the trial calendar is printed.

This case is not subject to mandatory mediation, pursuant to Local Civil Rule 101.1a(b), E.D.N.C. The parties are reminded that on request the court will assist with settlement negotiations or other alternative dispute resolution, such as a court-hosted settlement conference or summary jury trial, by making available a judge other than the trial judge to explore these possibilities. In their Discovery Plan, the parties indicate willingness to participate in mediation. If that is the parties' intention, they shall timely file an appropriate motion for such relief.

SO ORDERED, this the 26th day of September 2014.



James E. Gates
United States Magistrate Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
FILE NO. 5:14 CV 384-BR

ARSENIO MARTEZ RIVERS,)
Plaintiffs,)
)
v.)
)
CHIEF B. RHODES of the Mount Olive)
Police Department, PTL. I. DILLARD, of)
the Mount Olive Police Department,)
PTL. K. GRADY, of the Mount Olive)
Police Department, individually and in their)
official capacities,)
Defendants.)

REPORT OF THE PARTIES' PLANNING MEETING

The following persons participated in a Rule 26(f) conference via telephone, on September 9, 2014: Scott C. Hart, counsel for Defendants and Arsenio M. Rivers, Plaintiff. The parties submit the following as their Report of the Parties' Planning Meeting:

I. Joint Report and Plan.

A. Specific Information Concerning the Parties' Plan for Proposed Discovery:

- 1. Subjects of Discovery:** Discovery subjects shall include information regarding the claims in the Complaint, the defenses and other responses in the Answer and the issues set forth above.
- 2.** Discovery will not be conducted in phases and/or limited to or focused upon particular issues.

3. Categories of Discovery and Proposed Limitations.

- a. Initial Disclosures:** The parties will complete by October 1, 2014 the initial disclosures required by Rule 26(a)(1).

b. Discovery Plan: Discovery will be needed on those subjects contained in Plaintiff's Complaint, as well as the defenses contained in the Answer of Defendants.

c. Interrogatories: The parties agree to a maximum of fifty (50) Interrogatories to be served on each party. Responses will be due thirty (30) days from service (with three days added if service is by mail) or such later time as agreed upon by the parties or allowed by the Court.

d. Request for Admissions: The parties agree to a maximum of twenty-five (25) requests for admissions per party. Responses will be due in thirty (30) days from service (with three days added if service is by mail) or such later time as agreed upon by the parties or allowed by the Court.

e. Depositions: The parties agree to a maximum of six (6) depositions, per party. Each deposition shall be limited to a maximum of four (4) hours unless a longer time is agreed upon by the parties or allowed by the Court.

f. Document Requests: There will be no limitation on document requests. Responses will be due in thirty (30) days from service (with three days added if service is by mail) or such later time as agreed upon by the parties or allowed by the Court.

g. Supplementation: Supplementation under Rule 26(e) will be provided within a reasonable time as the information is obtained by the parties.

4. There are no anticipated issues relating to disclosure or discovery of electronically stored information, including issues as to the form(s) in which such information shall be produced.

5. There are no anticipated issues relating to claims of privilege or protection as trial-preparation material. If issues do arise, given the circumstances of this case, the parties will work together to attempt to resolve this, before submitting any dispute to the Court for any assistance.
6. Discovery may commence immediately. All discovery shall be concluded no later than December 31, 2014.
7. No particular discovery problems are anticipated.

B. Additional Deadlines.

1. Plaintiff's expert disclosures and information are due no later than December 31, 2014. Defendant's expert disclosures and information are due no later than November 15, 2014. Rebuttal disclosures and information are due by Plaintiffs no later than December 15, 2014.
2. The parties do not request a meeting with the Court prior to the entry of this scheduling order.
3. The parties do not have a specific date for a pre-trial conference, and understand that the Court will set a pre-trial conference in conjunction with the scheduling of a court date.
4. The Plaintiff shall have up to and including September 26, 2014 within which to amend his pleadings or to join additional parties. The Defendants shall have up to and including September 26, 2014 within which to amend pleadings or to join additional parties.
5. All dispositive motions shall be filed on or before March 2, 2015.

6. The parties do not yet know the prospects for settlement, and do not believe that this can be evaluated until discovery has been completed.
7. The parties do not know which form of alternative dispute resolution might enhance settlement prospects, given the current status of this case.
8. The parties propose that witness lists, designations of witnesses whose testimony will be presented by deposition, and exhibit lists pursuant to Rule 26(a)(3) will be provided thirty (30) days prior to the trial date set by this Court.
9. The parties propose that objections pursuant to Rule 26(a)(3) shall be filed within fourteen (14) days after the disclosures are made.
10. The parties submit to the Court that they will be prepared for the trial of this matter on or before May 4, 2015. It is believed that this case will take three (3) days for trial.

C. Other matters: None.

Respectfully submitted this the 22nd day of September, 2014.

By: /s/Arsenio Martez Rivers
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Mt. Olive, NC 28365

Pro se Plaintiff

By: /s/Scott C. Hart
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Attorneys for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the **REPORT OF THE PARTIES' PLANNING MEETING** was electronically filed with the Clerk of Court using the CM/ECF System, and was served upon Plaintiff by depositing the same in a postpaid wrapper in an official depository under the exclusive care and custody of the United States Postal Service, New Bern, North Carolina, and addressed to:

Arsenio Martez Rivers
1011 S. Center Street
Mt. Olive, NC 28365

This the 22nd day of September, 2014.

By: /s/Scott C. Hart
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